

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

CHARLES MORROW, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	CASE NO: 3:07-cv-00617-MHT
v.)	
)	
FLOWERS FOODS, INC., <i>et al.</i>,)	
)	
Defendants.)	

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO
STRIKE DEFENDANTS' REPLY IN FURTHER SUPPORT OF THEIR MOTION FOR
PROTECTIVE ORDER AND/OR MOTION TO QUASH SUBPOENA**

COME NOW Defendants Flowers Foods, Inc. ("Flowers Foods"), Flowers Baking Co. of Opelika, LLC ("Flowers/Opelika"), and Flowers Baking Co. of Thomasville, LLC ("Flowers/Thomasville"), by and through their undersigned counsel, and respectfully submit this Response in Opposition To Plaintiffs' Motion to Strike Defendants' Reply in Further Support of their Motion for Protective Order And/Or Motion to Quash Subpoena. Defendants state as follows:

1. Plaintiffs seek to strike the Reply submissions filed with this Court in support of Defendants' Motion For Protective Order And/Or Motion to Quash. However, Plaintiffs' stated reasons are somewhat disingenuous as they have submitted a Reply to certain of their Motions and this Court has no local rule forbidding the same.

2. First, Defendants do not need permission to file a Reply and these types of submissions are filed as a matter of course with all types of motions, including Motions for Summary Judgment, Motions to Add Parties and Motions to Compel. In fact, the Middle District does not have any local rule regarding submission of a Reply.

3. Second, in this case, Plaintiffs have filed a Reply to the two latter Motions mentioned above, namely, to their Motion To Add Parties, a reply was filed on January 15, 2008, and to their Motion to Compel, a Reply was filed April 23, 2008. .

4. As such, Plaintiff's Motion to Strike and the basis cited therein is inconsistent with their previous filings.

5. For the above reasons, Defendants respectfully request that the Court DENY Plaintiffs' Motion to Strike.

Respectfully submitted this 12th day of May, 2008.

/s/ Sandra B. Reiss

Sandra B. Reiss

Alabama Bar No. ASB-3650-S80S

OGLETREE, DEAKINS, NASH,

SMOAK & STEWART, P.C.

One Federal Place, Suite 1000

1819 Fifth Avenue North

Birmingham, Alabama 35203-2118

e-mail: Sandra.Reiss@odnss.com

Ph. (205) 328-1900; Fax: (205) 328-6000

And

Kevin P. Hishta

Georgia Bar No. 357410

Admitted *Pro Hac Vice*

OGLETREE, DEAKINS, NASH,

SMOAK & STEWART, P.C.

Bank of America Plaza

600 Peachtree Street, NE

Suite 2100

Atlanta, GA 30308

E-mail: Kevin.Hishta@ogletreedeakins.com

(404) 881-1300

(404) 870-1732 Fax

Counsel for Defendants, Flowers Foods, Inc.

Flowers Baking Co. of Opelika, LLC, and Flowers Baking

Co. of Thomasville, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of May, 2008, I electronically filed the foregoing ***Defendants' Response in Opposition to Plaintiffs' Motion to Strike Defendants' Reply in Further Support of Their Motion for Protective Order and/or Motion to Quash Subpoena*** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Greg L. Davis, Esq.
The Law Offices of Greg L. Davis
6987 Halcyon Park Drive
Montgomery, AL 36117

Joe R. Whatley, Jr., Esq.
Whatley Drake & Kallas, LLC
2001 Park Place North
Suite 1000
Birmingham, Alabama 35203

Joseph P. Guglielmo, Esq.
Whatley Drake & Kallas, LLC
1540 Broadway, 37th Floor
New York, New York 10036

Amy Lynne Weaver
Whatley Drake & Kallas, LLC
2001 Park Place North
Suite 1000
Birmingham, Alabama 35203

Glen M. Connor
Whatley Drake & Kallas, LLC
2001 Park Place North
Suite 1000
Birmingham, Alabama 35203

E. Kirk Wood, Esq.
Wood Law Firm, LLC
PO Box 382434
Birmingham, Alabama 35238-2434

/s/ Sandra B. Reiss
Sandra B. Reiss